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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,497	11/14/2001	Leola Henry	PIL0123/US	3217
33072	7590	04/07/2006	EXAMINER	
KAGAN BINDER, PLLC SUITE 200, MAPLE ISLAND BUILDING 221 MAIN STREET NORTH STILLWATER, MN 55082			TRAN LIEN, THUY	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/001,497

Applicant(s)

HENRY ET AL.

Examiner

Lien T. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen et al in view of Hahn et al and the "Professional Baking" cookbook for the same reason set forth in the previous office action.

In the response filed 1/27/06, applicant argues all the product in Hansen are clearly bread-like in consistency. All products listed in Hansen are bread-dough type products and none is conventionally prepared using biscuit dough. This argument is not persuasive. It is not clear what applicant means by "bread-like" or bread product. The dough in Hansen et al is used to prepare a variety of products including cinnamon rolls, other dough products, Danish, sweet rolls etc.. It is unclear what applicant characterizes as bread product or bread like. Furthermore, the dough in Hansen et al is leavened by chemical leavening agent which is the same as the claimed leavener. Hansen et al also disclose other dough product can be prepared; thus, it would have been obvious to one skilled in the art to prepare biscuit because the dough contains all the ingredients that are used to prepare biscuit. The preparation of biscuit is known in the art as shown by the cookbook; thus, to manipulate the processing parameters to prepare a biscuit using the dough of Hansen et al and the teaching of the cookbook would have been obvious to one skilled in the art. While Hansen et al disclose the preparation of laminated dough, they also teach "once so mixed, the dough product may simply be formed into desired shape and then frozen, if a laminated dough product is not desired". From this disclosure, it is clear other non-laminated dough product is made. Applicant states the challenge of consistently preparing larger sized rolls still exists, however, even after Hansen. This statement is not supported by factual

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evidence. Increasing the size of dough product is notoriously well known in the art. There are small, medium, large biscuit as well as muffin, bagel, roll etc.. Applicant states the BSV of a biscuit dough was significantly higher than the BSV of the roll product prepared from a fully developed laminated dough. This finding is not unexpected because different product has different BSV. The baked products in Hansen et al have a BSV within the range claimed. Applicant argues one would not be motivated to substitute a biscuit dough for a conventional bread-like dough in a bread-like product. The basis of this argument is not understood; it is not known what applicant means by bread-like. The dough disclosed by Hansen et al contains the same ingredients as claimed; it contains the same ingredients as a conventionally prepared biscuit. Thus, it would have been obvious to use the dough to prepare a biscuit product if that the type of product wanted. Hansen et al disclose other dough products can be made; thus, this would include biscuit. With respect to the Hahn reference, applicant argues Hahn does not teach the use of a biscuit dough and provides no motivation to use such as dough with the fillings disclosed. The Hahn reference is not relied upon for the teaching of a biscuit dough. It is used to show the filling and Hahn does teach using the filling with biscuits ( col. 13 lines 60-63). Thus, it would have been obvious to one skilled in the art use the filling with biscuit dough to obtain different taste and flavor. One would be motivated to use such filling because biscuit is commonly consumed with a filling material and Hahn teaches to use the filling with biscuits.

Applicant's arguments filed 1/27/06 have been fully considered but they are not persuasive.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Tuesday, Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cano Milton can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 4, 2006

*Lien Tran*  
LIEN TRAN  
PRIMARY EXAMINER  
*Group 1700*